PAKISTAN'S COOPERATION IN THE WAR ON TERRORISM

Mr. BROWNBACK. Madam President, I draw the attention of my colleagues to an event that happened yesterday which was very impressive—catching a key terrorist in Pakistan. It was the front page top story in virtually all of our newspapers around the country, probably around the world, with his picture. This is a person we have sought for some period of time. This was a big catch.

I do not want to focus on the individual. What I want to focus on is the cooperation we received from Pakistan and from the Pakistani authorities in making this possible. This capture could lead us to many more terrorists in the al-Qaida network who plague us, and it is very important for us.

I particularly want to thank the Pakistani authorities, the Pakistani Government, President Musharraf, and others who helped in this cooperation to get this done.

President Musharraf and his government, in facing a population in Pakistan that is frequently not pro United States, has worked very closely and very carefully with us in dealing with terrorists and now has yielded one of the largest, if not the largest, terrorist captures we have had in recent times, if not in recent memory altogether. That is something we should take note of, and we should be appreciative of those who have cooperated with us. Not all governments around the world cooperate with the United States. Not all are in as difficult a situation as Pakistan is where a substantial portion of the population does not want their government to be working with the United States, and yet we had the two come together taking on the issue of terrorism, even though it is difficult in their own country to do it, and we netted a major terrorist capture. We still want and we are still looking for, if he is alive, which he apparently probably is, Osama bin Laden, but second to him, this is probably the largest capture we could ask to have taken place.

I appreciate the indulgence of my colleagues. I do say thank you to the Government of Pakistan for its help in this capture of a major operative in the war on terrorism.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. I ask unanimous consent the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

2003 WOMEN IN SPACE CONFERENCE

Mr. DASCHLE. Madam President, I want to announce a very exciting event taking place this evening in my hometown of Aberdeen.

Tonight, in conjunction with the 2003 Women in Space Conference, Northern State University will host NASA astronaut, Dr. Karen Nyberg. Originally from neighboring Minnesota, Dr. Nyberg received her undergraduate degree at the University of North Dakota and her doctorate in mechanical engineering from the University of Texas. After finishing her education she worked for NASA, where she was granted a patent for work done on a robot assembly. Dr. Nyberg also worked extensively on improving the internal thermal control system of the space suits used by the astronauts. In July of 2000, she was selected in to the astronaut program, and she is awaiting an assignment on a future space flight as a mission specialist.

The tragic loss of the *Columbia* space shuttle on February 1 demonstrated to all Americans the dangers inherent to space exploration. However, the exciting opportunities space exploration presents require us to push forward, take risks and broaden our horizons by emulating the courage and fortitude demonstrated by the crew of the *Columbia*. As the President stated in his address to the nation, ''Mankind is led into the darkness beyond our world by the inspiration of discovery and the longing to understand. Our journey into space will go on.''

Thank you, Dr. Nyberg, for taking the time to visit Aberdeen and share your experiences and knowledge. To all the attendees and organizers, I wish you the best and congratulate you on what I am sure will be a successful and inspiring conference.

A KOREAN GOVERNMENT BAILOUT

Mr. HATCH. Madam President, I rise today as a longstanding proponent of free international trade. I am confident that if given the chance, U.S. companies that operate in the global marketplace will set the standard by which all international business will be conducted. This fact has been proven over-and-over again. Many great American owned companies are conducting business all over the world. I am a strong believer that these U.S. companies that operate in the global marketplace have a direct and positive impact world wide on consumers by allowing them competitive pricing and variety of choices in an increasingly discerning global market.

This benefit to society, however, is only as good as the business practices employed by foreign-owned companies. U.S. companies must operate in a competitive market that requires them to continue to innovate, cut costs, and effectively market their products. This is not always the case in certain industries in some foreign markets. In particular, I'd like to point out an important problem facing one of the largest employers in my State of Utah. Micron Technologies, the largest U.S. producer of D–RAM semiconductors, long has been plagued with unfair competition from its principal Korean competitor, Hynix, a company that has time and time again employed illegal government financed bail-out schemes to keep them in business.

This is not the first time that Micron has faced difficulties due to unfair trade practices. In the mid-1980s, Micron almost went out of business because of dumping by Japanese companies. Several of us in the Senate worked successfully to help put a stop to the illegal dumping. Ultimately, the Department of Commerce imposed duties that offset this dumping and Micron was not only able to survive, but eventually to become the second largest producer of semiconductors in the world today.

Micron has a very large facility in Lehi, Utah, that has employed over 500 of Utah's skilled laborers. This facility has the capacity of employing well over 5,000 people—a feat that will never be realized if the Korean Government is allowed to continue to subsidize Hynix.

It is important to point out that, just last December, Hynix received yet another direct financial bailout from the government of Korea. This practice must simply not be allowed to continue. Companies that operate in the global marketplace must be assured that they will be able to compete on a level playing field—and not against government-subsidized companies that may produce a substandard product, but are allowed to continue their operations because of an artificial infusion of operating capital. These illegal subsidies are costing the U.S. jobs and are weakening our technology base.

Let's examine the underlying facts about the trade distorting practices that Micron faces when competing in the world market.

Since October 2000, the government of Korea, acting through the banks that it owns and controls, has provided an astounding $16 billion in subsidies to Hynix, a Korean producer of D–RAM semiconductors and the principal global competitor to Micron Technologies.

Hynix is a company with massive debts resulting from the easy lending practices of Korean banks during the late 1990s. With these preferential loans, Hynix built substantial new capacity and became the third largest D-RAM producer in the world.

Starting in late 2000, Hynix became unable to repay the principal and interest on these loans and bonds. Rather than letting Hynix undergo formal bankruptcy, which would have resulted in substantial asset sales and restructuring, the Government of Korea orchestrated no less than five separate bailouts.

These subsidies have permitted Hynix to stay in business and that

company continues to run all its D–RAM labs full out, flooding the market with subsidized products. Despite all these subsidies, Hynix continues to lose money—by all accounts, roughly $8 billion over the past three years.

And yet, the Korean government continues to pour money into this company. Just two month ago, there was another bailout amounting to $4.1 billion. This is almost twice Hynix's revenues in all of 2002, which only amounted to $2.4 billion.

The Korean government must not be allowed to continue to underwrite the horrendous operating losses of this company as it has done for the past three years.

In the highly competitive D–RAM market, subsidies of this sort act as a trade distorting measure. Every other D–RAM company in the world is being crippled by the subsidized D–RAM that Hynix floods the market with. This has resulted in the worst and longest downturn the D–RAM sector has ever experienced.

Just last week, Micron announced that it was laying off ten percent of its worldwide workforce. This translates into 1,800 lost jobs in the United States. Hynix subsidies have had a real impact on Micron's bottom line as well—the subsidies have impacted pricing to such an extent that even Micron, one of the most efficient D–RAM producers in the world, has lost two billion dollars over the past two years. We cannot afford to see an important technology like D–RAMs lost in the United States, because of foreign government subsidies.

These sorts of subsidies have absolutely no place in today's global economy, particularly as we are engaged in a new round of trade talks aimed at further liberalizing trade regimes around the world.

All indications are that Hynix will use the debt forgiveness to continue to expand capacity. Just last week, Hynix announced that it would begin work on a new fabrication line to produce D–RAMs on state-of-the-art 300 mm wafers, which will result in even more subsidized D–RAM from Hynix. Now, we read in the papers that Hynix and other Hyundai companies are being investigated for illegally transferring about $500 million to North Korea in 2000, in return for lucrative contracts, and it did so with the help of South Korean banks and with the approval of the President of South Korea. This is the country that plans to reactivate its nuclear arms program.

In closing, I feel it incumbent upon me to point out that many Members of the United States Senate are paying close attention to the Korean Government's business practices as they relate to Hynix. Korea is one of the most developed economies in Asia and is a good friend to the United States in a wide variety of ways. But the government of Korea must realize that this type of illegal subsidy runs contrary to all the rules in the WTO and is not permitted under U.S. trade law. I call upon the Secretary of Commerce and the U.S. Trade Representative to help put an end to these illegal acts.

Mr. FEINGOLD. Madam President, I want to speak briefly on the clear violation of Judiciary Committee rules that occurred last week in our executive business meeting. It was a sad moment for our committee and does not bode well for the harmonious functioning of the committee this year. I believe that a discussion of this issue is also relevant to our debate of Miguel Estrada. In both cases we are talking about rules that protect the rights of the minority in this body from being run over by the majority. And in both cases we are talking about the use of those protections by the minority not to stonewall or block action by the majority indefinitely but to seek information about nominees that has not been forthcoming.

Let me quickly review the background of what happened last Thursday. All of this goes back, of course, to our duty under Article II, Section 2 of the Constitution, which specifically provides that the President shall appoint judges to our courts ''by and with the Advice and Consent of the Senate.'' The Senate's role is not just a matter of historical tradition, or comity with the Executive Branch, it is constitutionally mandated. All of us on the Judiciary Committee, and in the full Senate take this responsibility very seriously.

One of the ways that we exercise our constitutional responsibilities in this area, on behalf of the Senate and our colleagues who are not on the committee, is to closely examine the records of judicial nominees. We do that in part by holding hearings so that nominees can be questioned about their records, their judicial philosophy, their previous writings, their judicial opinions if they are currently or have been judges on other courts, and their views on legal issues. These hearings are not a mere formality, they are crucial to the role of the Judiciary Committee in carrying out the Senate's constitutionally mandated responsibilities.

This year, it appears that there is an effort underway to push through nominations in the shortest possible time. Prior to the President's Day recess, the committee held three nominations hearings in three weeks. By February 12, the committee had held hearings on five circuit court nominees. This is an extraordinary pace, particularly when you consider that the earliest that the committee had held hearings on five circuit court court nominees during President Clinton's term was April 29. In some years, that milestone wasn't passed until June, July, or even September, and in 1996, the committee never held a hearing on a 5th nominee to the circuit courts.

So this effort really gives the impression of a forced march. Our constitutional responsibilities are being subjugated to a schedule that seems to be aimed at forcing nominations through as quickly as possible, without regard to the Senate's prerogatives.

The Democrats on the committee have not tried to block all of the nominees. We voted on Miguel Estrada, and Jeffrey Sutton, and Jay Bybee in the ordinary course of business on the committee. But when it came to two other nominees, Justice Deborah Cook, a nominee for the Sixth Circuit and John Roberts, nominated to the D.C. Circuit, we tried to draw a line.

The reason we made that effort was that Justice Cook and Mr. Roberts were both considered in a single hearing on January 29th, along with Jeffrey Sutton, who was reported to the floor just prior to the recess. Actually, it is misleading to say they were considered in that hearing. They were all sitting at the witness table, but the vast majority of the questioning was directed to Mr. Sutton. There simply was not sufficient time for members of this committee to examine the other nominees.

A number of Senators asked repeatedly that further hearings be scheduled so that Senators could examine Justice Cook and Mr. Roberts. We even made the offer to have a single additional hearing for these two important nominees, even though we would prefer to examine a single controversial nominee at a time. We were rebuffed at every turn, even when it became abundantly clear that the single hearing would not suffice to let members of this committee examine the records of all of these nominees.

The single hearing that was held on January 29, 2003, on these three nominees was unprecedented. Never before has the committee held one hearing on three circuit court nominations over the objections of the minority. Indeed, it is highly unusual for the committee to hold a single hearing on even two controversial nominees, as a 1985 agreement among Senators DOLE, BYRD, THURMOND, and BIDEN demonstrates. That agreement was that only one controversial nomination would be considered at a time. It gave the minority some control over the pace of nominations, without of course giving it any kind of veto.

A number of Democrats on the committee raised the need for an additional hearing on Justice Cook and Mr. Roberts publicly during the hearing and privately during the breaks. We have repeated that request to the chairman of the committee on many occasions subsequently.

Early last week, when it become clear that the chairman would not schedule a second hearing so that Justice Cook and Mr. Roberts could receive proper consideration by the committee, we tried another approach. The nominees had said they are available to meet with us to answer any questions we have. So we sent a letter to the White House and requested that the two nominees make themselves available for a meeting to answer further

questions. In order to be able to proceed quickly in the committee following such a meeting, we suggested a joint meeting that Senators could attend at different times based on their individual schedules. We stated that we would have a transcript of the meeting prepared so that we could refer back to the nominees' answers, and that the meeting would be open to the public.

The response from the White House, which has repeatedly offered to have nominees meet with us privately was an immediate ''No.'' The immediate and unqualified refusal to our reasonable request seem to be part of the forced march. The Administration seems to be saying, ''We are to going to jam these nominees through, our way, regardless of how reasonable your request is.''

So that left us with only one option: To delay the vote on these two nominees until agreement could be reached on a further hearing, or some substitute for it. Some Senators on the Democratic side were simply not prepared to vote on Justice Cook or Mr. Roberts. We did not believe the committee has been given adequate opportunity to assess the qualifications and examine the record of Justice Cook and Mr. Roberts.

So when the chairman of the committee asked for a vote on Justice Cook, we objected. The proper course under our committee's longstanding Rule IV was for the chairman to hold a vote on a motion to end debate on the matter. The Rule provides that debate will be ended if that motion carries by a majority vote, including one member of the minority. In this case, our side was united in opposing ending the debate, so the motion would have failed. It is, in effect, as the chairman of the committee himself recognized in 1997 when the Rule was invoked in connection with the Bill Lann Lee nomination, a kind of filibuster rule in the committee. The vote to end debate is like a cloture vote, and it cannot succeed unless at least one member of the minority votes for it.

Now I have heard the argument, made by the chairman of the committee in a letter to the Democratic leader, that this rule was designed to allow a majority of the committee to force a so-called ''rogue chairman'' to hold a vote on a matter when he doesn't want to, but not to limit the chairman's ability to call for a vote over the objections of the minority. That is clearly an erroneous interpretation. It conflicts with text of the rule, the practice of the committee for 24 years under five separate chairmen, including the current chairman, and with the history of the rule itself.

The rule was adopted in 1979 when Senator KENNEDY chaired the committee. The committee at that time had 10 Democrats and 7 Republicans. Until that time there was no way to end debate in the committee. Recent years had seen controversial matters such as the Equal Rights Amendment stalled in committee. The Civil Rights era had seen the committee headed by a segregationist chairman block civil rights legislation by allowing it to be filibustered and never voted on. Chairman KENNEDY sought a new committee rule to allow him to bring a matter to a vote. His original proposal was simply to let a majority vote of the committee end debate. On January 24, 1979, he proposed such a committee rule.

Republicans on the committee, including Senator Thurmond who was the ranking member, and Senators SIMPSON, DOLE, COCHRAN, and HATCH, spoke up to protest that the minority should retain the right to debate a matter for as long as it felt it needed to. The next week, the committee reached agreement and adopted Rule IV, which has been in effect ever since. The compromise ended the ability of one or a few Senators to tie up the committee indefinitely. But it gave the majority the power to end debate if it could convince one member of the minority to agree. That was the compromise reached, and that is the rule we have had for over two decades.

The chairman's argument that the rule places no limit on his ability to end debate is clearly answered by this history. It is clearly wrong. The committee rule was violated when Justice Cook and Mr. Roberts were reported over the objection of some members without a ''cloture vote'' in the committee. There is simply no question about this.

It is very disappointing to have to discuss and debate committee rules on the floor of this body. This might seem like a petty matter. But it isn't. Honoring the rules of the Senate and the rules of the committees gives credibility and legitimacy to the work we do here. Rules are the hallmark of a democracy. In many ways our rules are analogous to the rule of law in our society. We have to respect those rules or we have nothing left.

In situations like these, I often think of the words of the great philosopher Sir Thomas More as portrayed in the play ''A Man for All Seasons.'' More questions a man named Roper whether he would level the forest of English laws to punish the Devil. ''What would you do?'' More asks, ''Cut a great road through the law to get after the Devil?'' Roper affirms, ''I'd cut down every law in England to do that.'' To which More replies:

> And when the last law was down, and the Devil turned round on you—where would you hide, Roper, the laws all being flat? This country's planted thick with laws from coast to coast . . . and if you cut them down . . . d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil benefit of law, for my own safety's sake.

It is clear from the history of Rule IV that it was insisted on by Republican Senators then in the minority to preserve their rights in committee. They should not cut down that forest just to have their way now that they are in the majority. We cannot permit that kind of results-oriented approach to the rules of the committee or of this body. The rules of this body, like the laws of this country, protect all of us. We must stand up to efforts to ignore them. What happened in the committee last week did not reflect well on this body. I sincerely hope that the chairman will reconsider his rulings and return some comity to our proceedings.

Let me just finally say that I voted Present on both Justice Cook and Mr. Roberts. I have not made a final decision on their nominations. I could very well support one or both of them here on the floor. But I think the committee must hold a proper hearing on them, giving all Senators a better opportunity to be well informed on these nominees before exercising their constitutional responsibilities.

THE FARM BILL

Mr. HARKIN. Madam President, I rise today to discuss an issue that has arisen out of a technical problem in the farm bill Congress passed last year.

Section 10806(b) of the Farm Security and Rural Investment Act of 2002 amended the Federal Food, Drug and Cosmetic Act by placing limitations on the use of the term ''ginseng'' as the common or usual name for plants classified within the genus Panax. The purpose of this provision was to address confusion that had arisen from products derived from different plants being labeled as ''Siberian ginseng'', and the like.

However, I must note that the use of the term ''ginseng'' for plants classified in a genus other than Panax was not illegal under Federal labeling laws in place prior to the passage of the Farm Security and Rural Investment Act of 2002. In these types of situations where a labeling change is proposed, the Food and Drug Administration recognizes that, in order to assure an orderly and economical industry adjustment to new labeling requirements, a sufficient lead time is necessary to permit planning for the use of existing label inventories and the development of new labeling materials.

Unfortunately, the ginseng provision Congress included in the farm bill lacked a specific effective date that would have allowed FDA's typical transition period to occur. As one of the lead authors of the farm bill, and as chair of the Senate Agriculture Committee at the time, I want to be clear this was simply an oversight on the part of the Senate and House in writing that portion of the farm bill that needs to be corrected as soon as possible.

I proposed to correct this omission in the Omnibus Appropriations bill for FY 2003, PL 108–7, and supply an effective date of May 13, 2003 for Section 10806(b) Ginseng Labeling of the Farm Security and Rural Investment Act of 2002. Unfortunately, in the rush to complete work on that bill, the provision was left out even though no one had any objections to it.